

**IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF GEORGIA**

In re:	*	
	*	CHAPTER 13
LESLIE MCDANIEL,	*	CASE NO. 12-41231-JTL
	*	JUDGE LANEY
Debtor	*	

LESLIE McDANIEL, Individually and as	*	
Representative of her Bankruptcy Estate,	*	
	*	
Plaintiff,	*	
	*	
v.	*	ADVERSARY PROCEEDING
	*	NO. 13-04013
SUNTRUST BANK, SUNTRUST	*	
MORTGAGE, INC., McCALLA	*	
RAYMER, LLC, FOXFIRE ACRES, INC.,	*	
THE UNITED STATES by and through	*	
THE INTERNAL REVENUE SERVICE,	*	
THE STATE OF GEORGIA	*	
(Represented by the DEPARTMENT OF	*	
REVENUE), THE GROGAN GROUP,	*	
LLC d/b/a GROGAN & GROGAN, and	*	
THE COLUMBUS CONSOLIDATED	*	
GOVERNMENT,	*	
	*	
Defendants.	*	

MOTION TO DISMISS CROSS-CLAIM OF DEFENDANT FOXFIRE ACRES, INC.

COME NOW SunTrust Bank (“SunTrust”) and SunTrust Mortgage, Inc. (“SunTrust Mortgage”), and pursuant to Bankruptcy Rule 7012, Fed.R.Civ.P. 12(b)(1), and Fed.R.Civ.P. 12(b)(6), hereby moves the Court to dismiss the Cross-Claim filed by Defendant Foxfire Acres, Inc. (“Foxfire”) [Doc. 11], respectfully showing the Court the following:

1.

Plaintiff filed this adversary proceeding on October 17, 2013. Defendant Foxfire filed its Answer and Cross-Claim on November 20, 2013. Foxfire asserts a single claim for declaratory relief in its Cross-Claim.

2.

SunTrust and SunTrust Mortgage show that Foxfire has not set forth a cognizable claim against them its Cross-Claim. The matters at issue in Foxfire's Cross-Claim are further already at issue in the case of *Foxfire Acres, Inc. v. McCalla Raymer, LLC, et. al.*, Superior Court of Muscogee County, Civil Action Number SU11-CV-4107.

3.

SunTrust and SunTrust Mortgage deny that Foxfire's Cross-Claim against them is a core proceeding as contemplated by 28 U.S.C. § 157, and deny that this action is sufficiently related to the above-styled bankruptcy case so as to authorize jurisdiction of this Court as to those claims. This Court lacks subject matter jurisdiction to consider Foxfire's Cross-Claim.

4.

Pursuant to Bankruptcy Rule 7012, Fed.R.Civ.P. 12(b)(1), and Fed.R.Civ.P. 12(b)(6), Foxfire's Cross-Claim should be dismissed as to SunTrust and SunTrust Mortgage.

Respectfully submitted, this 10th day of December, 2013.

[SIGNATURES ON NEXT PAGE]

/s/ Cater C. Thompson

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served either electronically or via U.S. Mail with adequate first class postage to the addresses below on the following persons:

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This 10th day of December, 2013.

/s/ Cater C. Thompson